

a1 (B) at least one xanthine base or a plant extract containing the same.

a2 3. (Amended) The composition according to Claim 1, wherein said sapogenin is a derivative of hecogenin.

4. (Amended) The composition according to Claim 3, wherein said derivative of hecogenin is hecogenin acetate.

a3 13. (Amended) A method for preventing and/or combating cellulite, said method comprising applying to the skin, of a subject in need thereof, an effective amount of the composition of claim 1.

a4 17. (Amended) A method for refining the figure or the contours of the face, said method comprising applying to the skin of the figure or the skin of the face, of a subject in need thereof, an effective amount of the composition of claim 1.

Please add the following new claims.

--21. (New) The composition according to Claim 1, wherein said xanthine base is caffeine.

a5 22. (New) The composition according to Claim 2, wherein said xanthine base is caffeine.

23. (New) The composition according to Claim 4, wherein said xanthine base is caffeine.

24. (New) The composition according to Claim 12, wherein said xanthine base is caffeine.

25. (New) The method according to Claim 13, wherein said xanthine base is caffeine.

26. (New) The method according to Claim 15, wherein said xanthine base is caffeine.

27. (New) The method according to Claim 17, wherein said xanthine base is caffeine.

28. (New) The method according to Claim 19, wherein said xanthine base is caffeine.

29. (New) The composition according to claim 1, wherein the xanthine base : sapogenin ratio is from 1.5 : 1 to 333 : 1.

30. (New) The composition according to claim 1, wherein the xanthine base : sapogenin ratio is from 1.5 : 1 to 10 : 1.

05 31. (New) The composition according to claim 1, wherein the xanthine base : sapogenin ratio is from 1.5 : 1 to 4 : 1.

32. (New) The composition according to claim 1, wherein the xanthine base : sapogenin ratio is from 4 : 1 to 10 : 1.

33. (New) The composition according to claim 22, wherein the xanthine base : sapogenin ratio is from 1.5 : 1 to 333 : 1.

34. (New) The composition according to claim 22, wherein the xanthine base : sapogenin ratio is from 1.5 : 1 to 4 : 1.

35. (New) The composition according to claim 1, wherein the sapogenin is selected from the group consisting of diosgenin, hecogenin, smilagenin, sarsapogenin, tigogenin, yamogenin, yuccagenin, a natural extract containing diosgenin, a natural extract containing hecogenin and mixtures thereof.

SUPPORT FOR AMENDMENTS

Claim 1 has been amended to clarify the required sapogenin. Support for these amendment exists, *inter alia*, at page 1, lines 23-24, page 4, line 24 through page 5, lines 1-7, and page 9, lines 23-24.

Claim 3 and 4 have been amended to delete the phrase “sapogenin ester.”

Claims 13 and 17 have been amended so that they depend from claim 1 and require the claim 1 composition to be used in the claimed methods. Accordingly, Applicant respectfully submits that withdrawal of claims 13-20 from prosecution is improper.

New claims 21-35 have been added. Support for these new claims exists, *inter alia*, at page 5, line 13, the Examples, and in original claim 1.

Claims 1-35 are currently pending.

REJECTION UNDER 35 U.S.C. §112

The Office Action rejected claims 1 and 4 under 35 U.S.C. § 112, second paragraph, as being indefinite based upon the presence of the phrase “sapogenin ester” in claim 4.

Applicant respectfully submits that the above amendments to claims 3 and 4 have rendered this rejection moot. Accordingly, Applicant respectfully requests that the rejection under §112 be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103

The Office Action rejected claims 1-12 under 35 U.S.C. § 103 as obvious over U.S. patent 5,770,223 (“Bonte”), alone or in combination with U.S. patent 4,288,433 (“Koulbanis”) or U.S. patent 3,136,761 (“Loken”). In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of these rejections.

Bonte discloses alfalfa sapogenins. These sapogenins are chemically different from the claimed sapogenins. (See, page 2, lines 11-17 of the present specification). Thus, Bonte neither teaches nor suggests compositions containing the claimed sapogenins.

Moreover, Bonte does not disclose or suggest achieving a slimming effect with his compositions. (See, page 2, lines 11-17 of the present specification). Thus, Bonte neither teaches nor suggests the anti-cellulitic and/or refining methods of claims 13-20 and 25-28.

Koulbanis does not compensate for Bonte's deficiencies. Koulbanis relates to xanthine compounds, not sapogenins. Thus, the combination of Bonte and Koulbanis cannot yield the claimed invention because neither reference discloses or suggests the claimed sapogenins, nor does either reference teach nor suggest the claimed anti-cellulitic and/or refining effects associated with such sapogenins.

What's more, no motivation would have existed for one skilled in the art to modify the disclosure in Bonte and Koulbanis by substituting the claimed sapogenins for those disclosed by Bonte, let alone using such modified compositions for the claimed anti-cellulitic and/or refining purposes.

In view of the above, Applicant respectfully submits that the rejections under 35 U.S.C. § 103 based upon Bonte alone or upon Bonte in combination with Koulbanis are improper and should be withdrawn.

Regarding the § 103 rejection based upon Bonte and Loken, Applicant respectfully submits that claims 8 and 9, which are directed to xanthine compounds, are in condition for allowance because these claims were not rejected as obvious over the combination of Bonte and Loken.

Similarly, claims 21-24, 33 and 34 require the presence of caffeine. Because neither Bonte nor Loken disclose or suggest caffeine, Applicant respectfully submits that these claims are in condition for allowance as well.

Also, Applicant respectfully submits that method claims 13-20 and 25-28 are in condition for allowance because neither Bonte nor Loken discloses or suggests the claimed anti-cellulitic and/or refining effects.

Finally, Applicant respectfully submits that the remaining claims, claims 1-7, 10-12, 29-32 and 35 would not have been obvious to one skilled in the art in view of the disclosures in Bonte and Loken. Bonte relates to using alfalfa sapogenins to achieve particular desired effects. No motivation would have existed for one skilled in the art to substitute Loken's non-alfalfa sapogenins for Bonte's alfalfa sapogenins with the expectation that Bonte's desired effects (for example, hair growth stimulation) would result using the non-alfalfa sapogenins. Accordingly, no motivation would have existed to combine Bonte and Loken to yield the claimed invention.

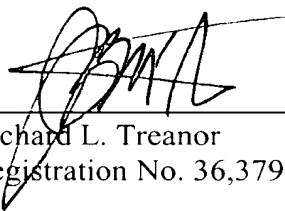
In view of the above, Applicant respectfully submits that the rejection under 35 U.S.C. § 103 based upon Bonte and Loken is improper and should be withdrawn.

Finally, Applicant requests that the Examiner indicate that the references submitted with the Information Disclosure Statement ("IDS") submitted August 22, 2001, have been considered by initialing the PTO Form-1449 submitted with the IDS. A copy of the PTO Form-1449 is attached hereto for the Examiner's convenience.

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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